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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,594	09/25/2003	Yukinori Noguchi	2091-0298P	5681

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BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER
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NGUYEN, MERILYN P

ART UNIT	PAPER NUMBER
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2163

NOTIFICATION DATE	DELIVERY MODE
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12/15/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/669,594	<b>Applicant(s)</b> NOGUCHI, YUKINORI	
	<b>Examiner</b> Merilyn P. Nguyen	<b>Art Unit</b> 2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08/26/2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-13,15 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-13,15 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/30/2008</u>  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. In response to the communication dated 08/26/2008, claims 1, 2, 4-15 and 17 are active in this application as the result of the addition of claim 17.

2. This application claims priority of Japanese patent number 281513/2002 filed on 09/26/2002.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 2 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 2, the claim recites a data management apparatus comprising means which lacks the necessary physical articles or objects to constitute a machine or manufacture within the meaning of 35 U.S.C 101. Even the preamble recites “apparatus”, a apparatus may be explicitly claimed as, for example, as a series of code or instructions for performing functions or may be implicitly claimed as, for example, a program or a tool or a logic or a module. Where there is no evidence in the specification that a term or phrase, which may be interpreted as software, hardware or combinations thereof necessarily, includes hardware, it should be interpreted in its broadest reasonable sense as software. Therefore, the claim is non-statutory subject matter because they are software per se.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meek (US 7,092,969), in view of Powell (US 6,385,330).

Regarding claims 1, 2, 4 and 17, Meek discloses a data management method, a data management apparatus, and a computer readable recording medium storing thereon a program, for managing original data and derivative data by relating the original data and derivative data, the derivative data being generated through editing processing on the original data (See Figs 0-4, and columns 9-10), the data management method comprising the steps of:

- generating first link information for linking the original data and the derivative data and editing information (transformation information) representing the content of the editing processing on the original data (See col. 6, lines 12-25);
- attaching the first link information and the first editing information to the first derivative data as first accompanying information (tag) thereof (See Abstract, and col. 6, lines 12-25 and col. 8, line 62 to col. 9, line 17).

Meek is silent as to attaching the first link information and the first editing information to the original data. Instead Meek teaches updating source image metadata (See col. 10, lines 44-48).

On the other hand, Powell teaches attaching link and editing information to the original data so

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that to determining whether the subject is derived from the signed image (See col. 2, lines 48-56, Powell et al). However, one having ordinary skill in the art would have recognized that attaching the link information and the editing information to both the derivative data and the original data as accompany information thereof can be applied to the system of Meek. Meek attaches the link information and the editing information to the derivative data so that the original data can be found. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to attaching the link information and the editing information to the original data so that the derivative data can also found. The motivation would have been to enhance the flexibility of Meek system so that both original data and derivative data can be bi-directional related to each other.

Meek is silent as to second derivative data which is generated through editing processing on the first derivative data. Powell teaches second derivative data (See col. 6, lines 20-45, Powell et al). However, one having ordinary skill in the art would have recognized that generate second derivative data through editing the first derivative data can be applied to the system of Meek, since Meek generates first derivative data on the original data. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to generated second derivative data which is generated through editing processing on the first derivative data so that multiple derivative data can be generate from not only the original data but also from derivative data. The motivation would have been to enhance the flexibility of Meek system so that multiple derivative data can be derived from any derived data.

Meek is also silent as to generating second link information for linking the first derivative data and the second derivative data and second editing information representing the content of

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the editing processing on the first derivative data; and attaching the second link information and the second editing information to the first derivative data and the second derivative data as second accompanying information thereof. However, these are obvious as addressed above.

Meek also discloses accompanying information generation means and accompanying information attaching means (Fig. 3).

Regarding claim 5, Meek/Powell discloses wherein the first accompanying information is inseparably attached to each of the original data and the first derivative data, and the second accompanying information is inseparable attached to each of the first derivative and the second derivative data as addressed above and col. 6, lines 12-25).

Regarding claim 6, Meek/Powell discloses the editing processing includes at least one of copying for generating the derivative data that have exactly the same content as the original data, processing for obtaining the derivative data by modifying the original data (See col. 9, line 55 to col. 10, line 14), and image processing on the original data in the case where the original data are image data (See col. 9, line 55 to col. 10, line 14).

Regarding claim 7, Meek/Powell discloses the copying processing includes not only the process for sending the original data from a computer having the original data to another computer, but also the process for sending the first derivative data from a computer having the first derivative data to another computer (See col. 8, line 7, lines 38-40 and 63-65).

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Regarding claim 8, Meek/Powell discloses wherein the copying processing includes not only the process for sending the original data from a computer having the original data (server's database 22) to another computer connected to the computer through one of a network and a serial connection but also the process for sending the first derivative data from a computer having the first derivative data to another computer connected to the computer through one of the network and the serial connection (See Fig. 0 and col. 7, lines 55-65).

Regarding claim 9, Meek/Powell discloses wherein the network includes one of a LAN and a WAN such as the Internet (See col. 7, lines 25-28).

Regarding claim 10, Meek/Powell discloses the first link information is information that enables a user to directly or indirectly refer to the original data from the first derivative data and to directly or indirectly refer to the first derivative data from the original data, and the second link information is information that enables a user to directly or indirectly refer to the first derivative data from the second derivative data and to directly or indirectly refer to the second derivative data from the first derivative data (see Abstract and col. 9, lines 1-5).

Regarding claim 11, Meek/Powell discloses wherein the link information includes the name of the other data, and wherein the link information further includes at least one of a location of a location of the other data and a pointer indicating the location thereof (See col. 6, lines 15-46).

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Regarding claim 12, Meek/Powell discloses wherein the pointer is the URL of the derivative data in the case where the derivative data are stored in a Web server (See col. 6, lines 6, lines 26-35).

Regarding claim 13, Meek/Powell discloses wherein the accompanying information is attached to each of the original data and the derivative data by using one of a method of describing the accompanying information in header information in each of the original data and the derivative data, a method of describing the accompanying information in tag information of each of the original data and the derivative data if the original data and the derivative data are image data (See col. 6, lines 13- 25) and a method of writing accompanying information generated according to an XML in a predetermined area of each of the original data and the derivative data.

Regarding claim 15, Meek/Powell discloses generating third link information for linking the original data and said second derivative data and third editing information representing the content of the editing processing to generate said second derivative data from the original data, and attaching the third link information and the third editing information to the original data and said second derivative data as third accompanying information thereof as addressed above in claim 1 since generating different derivative data does not change how the generating derivative data function.

***Response to Arguments***



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5. Applicant's arguments filed 08/26/2008 have been fully considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marilyn P Nguyen whose telephone number is 571-272-4026.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

Marilyn Nguyen

AU 2163

/don wong/  
Supervisory Patent Examiner, Art Unit 2163